

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: Bair Hugger Forced Air Warming
Devices Products Liability Litigation

MDL No. 15-2666 (JNE/DTS)

This Document Relates to:

PRETRIAL ORDER NO. 27:
SECOND AMENDED
SCHEDULING ORDER FOR THE
BELLWETHERS SECOND

ALL ACTIONS

Based upon the submission of the parties, the Court finds that good cause exists to modify the schedule for the Bellwethers Second as follows:

1. The Bellwethers Second were these cases:

Joint Nominees

17-cv-0511 (*Nancy Axline v. 3M Co.*)
17-cv-1696 (*Laura Hives v. 3M Co.*)

Plaintiffs' Nominees

16-cv-2144 (*Pearlie Partlow v. 3M Co.*)
16-cv-4159 (*Ada Trombley v. 3M Co.*)
17-cv-459 (*Terry Arnold v. 3M Co.*)

Defendants' Nominees

17-cv-1078 (*Julio Ramirez v. 3M Co.*)
17-cv-3056 (*Ruth Goodpaster v. 3M Co.*)
17-cv-3068 (*David Henderson v. 3M Co.*)

2. *Hives* and *Axline* had been designated as the first two Bellwethers Second cases to be prepared for trial. *Hives*, *Ramirez*, and *Henderson* have been dismissed and Plaintiffs' counsel have indicated they intend to file a motion to dismiss the remaining claims in *Axline*.

3. For the remaining four Bellwether Second cases (*Partlow*, *Trombley*, *Arnold*, and *Goodpaster*), case-specific fact discovery closes on January 11, 2018. For treater depositions, each side may use half of the total time set aside for a deposition. Neither party may use the other's unused time.

4. For expert testimony about specific causation in the remaining Bellwether Second Cases,

a. Initial expert reports and disclosures of the identify of expert witnesses under Rule 26(a)(2) must be exchanged by January 18, 2019.

b. Rebuttal expert reports and disclosures of the identity of rebuttal expert witnesses must be exchanged by February 8, 2019.

c. Depositions of expert witnesses must be completed by March 7, 2019.

d. If an expert has testified about general causation, a party deposing that expert witness may not explore general causation unless as incidental to a specific causation inquiry.

5. By February 15, 2019,

a. The parties must indicate to the Court which one of the Bellwether Second will be tried beginning on May 13, 2019. Because Defendants were entitled to the next pick after *Hives* and *Axline*, *Goodpaster* is the case that will be tried beginning on May 13, 2019, unless the case has been dismissed or the parties have agreed otherwise. If *Goodpaster* has been dismissed and the parties are unable to reach agreement on the case to be tried, each side must submit a statement to the Court of no more than 350 words about

why its proposed case is most suitable to be tried on May 13, 2019, and the Court will decide.

b. The parties must propose when the other remaining Bellwether Second cases will be trial-ready.

6. Case-specific *Daubert* and dispositive motions in the Bellwether Second case designated for trial under Paragraph 5(a) of this Order must be filed by March 14, 2019. Responses must be filed by March 28, 2019, and any replies by April 8, 2019.

IT IS SO ORDERED.

Dated: November 15, 2018

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge